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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,987	07/22/2003	Christopher Hofmeister	390P011010-US (PAR)	8171
2512	7590	03/29/2006	EXAMINER	
PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			ART UNIT	PAPER NUMBER

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action
After the Filing of an Appeal Brief

Application No.

10/624,987

Examiner

Gregory W. Adams

Applicant(s)

HOFMEISTER ET AL.

Art Unit

3652

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The reply filed 12 December 2005 is acknowledged.

1. ☒ The reply filed on or after the date of filing of an appeal brief, but prior to a final decision by the Board of Patent Appeals and Interferences, will not be entered because:

a. ☒ The amendment is not limited to canceling claims (where the cancellation does not affect the scope of any other pending claims) or rewriting dependent claims into independent form (no limitation of a dependent claim can be excluded in rewriting that claim). See 37 CFR 41.33(b) and (c).

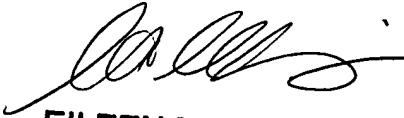
b. ☒ The affidavit or other evidence is not timely filed before the filing of an appeal brief.
See 37 CFR 41.33(d)(2).

2. ☐ The reply is not entered because it was not filed within the two month time period set forth in 37 CFR 41.39(b), 41.50(a)(2), or 41.50(b) (whichever is appropriate). Extensions of time under 37 CFR 1.136(a) are not available.

Note: This paragraph is for a reply filed in response to one of the following: (a) an examiner's answer that includes a new ground of rejection (37 CFR 41.39(a)(2)); (b) a supplemental examiner's answer written in response to a remand by the Board of Patent Appeals and Interferences for further consideration of rejection (37 CFR 41.50(a)(2)); or (c) a Board of Patent Appeals and Interferences decision that includes a new ground of rejection (37 CFR 41.50(b)).

3. ☐ The reply is entered. An explanation of the status of the claims after entry is below or attached.

4. ☒ Other: NOTE 1a: The Amendment filed with the filing of the Appeal Brief changes the scope of claims 1 & 16, cancels claims 43-71. The amendment to claims 1 & 16 should be removed; the amendment would be entered if it merely cancels claims 43-71. NOTE 1b: The affidavit Exhibit A (dictionary page) was not timely filed prior to the filing of the appeal brief. MPEP 41.33 (D-1).


EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

10/624,987

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3652

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The Appeal Brief filed on 12 December 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☒ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☒ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

NOTE 2: The status of claims section is improper for failing to include the status of claims 43-71.

NOTE 7: Claim Appendix should included a corrected copy, removing the amendment to claims 1 & 16, noting the cancellation of claims 43-71. The claims listing should reflect that claims filed on February 25, 2005.

NOTE 8: The affidavit Exhibit A (dictionary page) was not timely filed prior to the filing of the appeal brief and subsequently entered by the Examiner. MPEP 41.33 (D-1). In this case, Exhibit A has not been timely filed will not be considered.

NOTE 9/10: MPEP 41.37 requires headings titled Evidence Appendix and also Related Appeals Appendix ever Appellant states "NONE" under the heading. The Status of Claims section should include the status of any claims cancelled or withdrawn.


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